

REMARKS

Claims 1-27 and 29-34 remain pending in this application. Claims 16-18 stand allowed, claims 1-8, 10, 13-15, 19-27, and 29-34 stand rejected, claims 9-12 and 34 stand objected to, and claim 28 has been cancelled.

Applicants express their appreciation for the allowance of claims 16-18, and the indication of allowable subject matter in claims 9, 11, and 12. With respect to claims 9 and 11, since these claims have now been rewritten in independent form to include all of the limitations of their base claim and any intervening claims, they should also be allowable at this time. With respect to claim 12, this claim has also been rewritten in independent form. However, claim 12 previously included a base claim, claim 10, and an intervening claim, claim 11. Claim 12 has now been rewritten in independent form to include all the limitations of the base claim, claim 10, but to exclude the limitation(s) of the intervening claim 11. Applicants submit claims 9, 11, and 12 are presently in condition for allowance.

The examiner objects to the drawings under 37 CFR 1.83(a), contending that the drawings do not show every feature of the invention specified in the claims. The examiner apparently raised this contention with respect to claim 28, which recites that "the elongated slats are connected by an elastomeric material." Applicants respectfully transverse the examiners contention. However, to expedite allowance of the remaining claims, Applicants herein cancel claim 28 without disclaimer of the subject matter claimed therein.

The examiner objects to claims 10, 11, and 34 because of certain cited minor informalities. These claims have been amended accordingly.

The rejections set forth in the Office Action are now addressed in order below.

Claims 1, 2, 5, 6, 8, 10, 13-15, 24-27, and 29-34 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Wheatley (U.S. Patent No. 6,386,616). Claims 3, 19, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wheatley in view of Byrd et al. (U.S. Patent No. 4,496,184). Claims 4 and 21-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wheatley in view of Tucker (U.S. Patent No. 5,261,719). Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wheatley. Applicants respectfully transverse.

Wheatley teaches an apparatus for attaching a cover for an open-topped vehicle enclosure. The apparatus includes a plurality of female snap members 32 that are attached along the periphery of a cover 22, which are received by male snap members 30 of rail system 24,26. *See* Wheatley at Col. 2, lines 45-60. As can be seen in Fig. 3, rail system 24,26 has a closed section shape with an inner wall 40, an upper wall 42 and a lower wall 44. The snap member mounting wall 50 is coupled to the outer wall 48 by an upper connecting wall 52 and a lower connecting wall 54. *See* Wheatley at Col. 2, line 62-Col. 3, line 2. The snap mounting wall 50 includes upper and lower side edges that extend beyond the connecting walls 52 and 54 forming overhanging edges 58 and 60, about which the male snap members 30 engage and are thereby retained on the rail. *See* Wheatley at Col. 3, lines 3-7.

As can be seen in Fig. 3 of Wheatley, the male snap member 30 is fitted on the outside of snap mounting wall 50. Moreover, the snap member 30 is located on the outside of a purported channel formed at the upper end of snap mounting wall 50. In addition, as can be seen in Fig. 4, edges 63 of the male snap member 30 are bent such that the bent edges 63 can engage with overhanging edges 58 and 60. By teaching that edges 63 must be bent in order to engage with the rail system, Wheatley teaches male snap members that are substantially square and not elongated. In addition, due to bent edges 63, male snap member 30 is not flat.

Claim 1 by contrast recites a second fastening means that is elongated. The term "elongated" means that the dimension of length is greater than the dimension of width. Thus, unlike Wheatley, which discloses a substantially square male snap member, claim 1 recites that the second fastening means is elongated, meaning it is longer than it is wide.

Claim 10 recites an elongated slat. Again the claim term "elongated" distinguishes the claimed invention over Wheatley because the slat of the claimed invention necessarily is longer than it is wide. Moreover, the term "slat" refers to a flat strip. The male snap member of Wheatley is not a flat strip. Instead, Wheatley teaches a male snap member 30 containing bent edges 63 that cause male snap member 30 to not be a flat strip.

Claims 13, 31, and 32 recite an elongated slat, mounted within the channel, having a fastening surface exposed through the channel. As with claims 1 and 10, the use of the term "elongated" distinguishes the claimed invention over Wheatley. As with claim 10, the use of the term "slat" distinguishes the claimed invention over Wheatley because the slat of the claimed invention is flat, while Wheatley teaches a male snap member that is not flat. Further, Wheatley does not teach an elongated slat mounted within a channel. In Wheatley, the male snap member 30 is fitted on the outside of any channel. *See* Wheatley, Fig. 3. In addition, Wheatley does not teach a fastening surface exposed through the channel. By contrast, Wheatley teaches that the fastening surface, namely the male snap of the male snap member 30, is entirely on the outside of any purported channel taught by Wheatley.

In view of the foregoing, the Wheatley patent fails to teach or suggest independent claims 1, 10, 13, 31 or 32. Because independent claims 1, 10, 13, 31, and 32 are allowable over Wheatley, dependent claims 2-8, 14, 15, 19-27, 29, 30, 33, and 34 are also patentable over the patents of record.

CONCLUSION

In view of the foregoing, reconsideration and allowance of this application are earnestly solicited.

Respectfully submitted,

JONES DAY

Dated: December 22, 2005

By: 

David A. Randall
Reg. No. 37,217

555 S. Flower Street, 50th Floor
Los Angeles, California 90013-1025
Phone: (213) 489-3939
Facsimile: (213) 243-2539
Customer No.: 34026